

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Yihong Qiu, J. Daniel Bollinger, Howard S. Cheskin, Sandeep Dutta, Kevin R. Engh, Richard P. Poska, and Kenneth W. Sommerville

Application No.: 09/877,681

Group No.: 1615

Filed: 06/08/2001

Examiner: Isis Ghali

For: Controlled Release Formulation of Divalproex Sodium

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

PETITION TO REVIVE APPLICATION ABANDONED
UNINTENTIONALLY FOR FAILURE TO REPLY

1. This application became abandoned on December 24, 2006.
2. This application became abandoned because the failure to prosecute was an unintentional delay. The entire delay in filing the required reply from the due date until the filing of this petition was unintentional 37 C.F.R. 1.137(b)(3).

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

*(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10*

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Wanda E. Smith
Signature

Date: December 21, 2007

Wanda E. Smith

(type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

3. Reply

With respect to the outstanding requirements applicant files herewith an amendment under 37 C.F.R. 1.116 that cancels all rejected claims or otherwise *prima facie* places the application in condition for allowance.

4. Fee (37 C.F.R. 1.17(m))

Applicant's status is: Other than a small entity — fee \$1,540.00.

5. Fee Payment

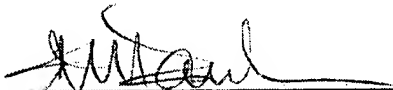
Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

6. Showing

Because this petition is more than one year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997); Section 711.03(c), MPEP, 8th Edition, Rev.2).

In particular, applicant's attorney became aware of the abandonment early in 2007 upon receiving a telephone status inquiry from the USPTO. The abandonment had not been previously discovered, and action thereafter was not immediately taken, because applicant's records for this application were missing and could not be located. Ultimately, it was determined that this file and related files had been withdrawn and transferred to another department in connection with ongoing litigation. Upon recovery of these files, applicant's attorney resumed activity as evidenced in the instant submission.

Date: 12/20/2007



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